

STATUS AND ENTITY

OVERVIEW OF AMENDMENTS & REMARKS

1. SPECIFICATION: No amendments. 1999 NOV -5 PM 2: 46
2. CLAIM CANCELLATION DUE TO RESTRICTION REQUIREMENT: Non-elected prior claims 11 - 34, and 36 - 50 of record under traverse have been canceled. See "SUPPLEMENTAL REQUEST FOR RECONSIDERATION OF RESTRICTION REQUIREMENT UNDER 37 CFR 1.143" mailed June 26, 1998 enclosed.
3. CLAIMS STATUS:
- a. No canceled claims.
  - b. Amended (12) claims: 1, 6 - 10, 35, & 51 - 55.
  - c. No amendment (4) claims: 2 - 5.
  - d. New claims (3): 56 - 59.
  - e. Total (19) original patent claims pending:
    - (6) independent claims: 1 - 6.
  - f. (13) dependent claims: 7 - 10, 35, & 51 - 59.
4. NO REJECTION OF CLAIMS UNDER 35 USC SECTION 102 REMAIN.
5. THE REJECTION OF CLAIMS UNDER 35 USC SECTION 103(a) ARE TRAVERSED with amendments and arguments in favor of novelty, and unobviousness presented.
6. THE REJECTION OF CLAIMS UNDER 35 USC SECTION 112 ARE TRAVERSED with arguments in favor of definiteness presented.
7. A PETITION FOR (1 MONTH) EXTENSION OF TIME (Rules 136 and 17(a)-(d)) is enclosed with payment of fees (below).
8. FEE PAYMENT:
- \$55.00 (check #3520) - PETITION FOR (1 MONTH) EXTENTION OF TIME (above)
- \$396 (check #3519) EXCESS CLAIM FEES (below)
9. FEE STATUS: (small entity) A total of \$3181 has been paid on the present application which results in an overpayment of \$2111 per this

AMENDMENT D which now presents (6) independent claims, and (13) dependent claims for a total of (19) claims.

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BASIC NATIONAL FEE \$350

EXCESS CLAIM FEES PREVIOUSLY PAID: \$2435

EXCESS CLAIM FEES PREVIOUSLY DUE: \$324

independent claims in excess of three :  $3 \times \$41 = \$123$

claims in excess of twenty:  $6 \times \$11 = \$66$

multiple dependent claims: \$135

EXCESS CLAIM FEES PAID THIS AMENDMENT: \$396

independent claims in excess of three : 0

claims in excess of twenty:  $36 \times \$11 = \$396$

OVERPAYMENT OF EXCESS CLAIM FEES \$2111

10. REQUEST FOR REFUND OF OVERPAYMENT \$2111

11. REQUEST FOR CONSTRUCTIVE ASSISTANCE

Applicant has made diligent effort to write the claims of this application in allowable condition. If for any reason the claims are not believed to be in full condition for allowance, Applicant respectfully requests the constructive assistance of Examiner in writing one or more allowable claims pursuant to MPEP 707.07(j), and in making constructive suggestions pursuant to MPEP 706.03(d) in order that this application be placed in allowable condition as soon as possible.

### REMARKS

12. The multiple dependent claims were amended to include reference to more of the independent claims to provide more detailed identification of the claimed invention, and are a fortiori patentable along with the independent claims referenced. In others, the area of infection replaced the previous more technical medical terminology.

13. New multiple dependent claims 56 - 58 were added to provide more detailed identification of the source of the claimed active agent, and are a fortiori patentable along with the independent claims referenced.

There is no requirement that claims provide definition of terms used. See MPEP 2111.1

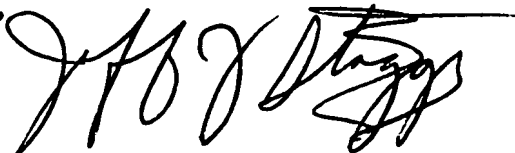
Claim terms are interpreted according to their plain meaning to practitioners of ordinary skill in the art, coupled with specification disclosure.

In addition to available prior art, the specification provides numerous examples of capsaicin, and capsaicin-like (capsaicinoids) compounds (claim 53) with basic constituent, and analog structures described (pg. 31-36), and shown in the drawing figures (6). "Synthetic" versions are also mentioned (claim 51) (pg. 31 - 33).

Likewise with the "piperidine" constituent series (claim 55).

No further amendments at this time.

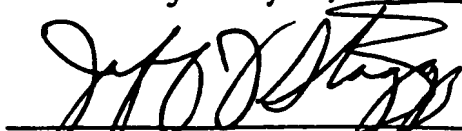
Respectfully,

 01/23/99

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### Certificate of Mailing

I certify that this correspondence will be deposited with the United States Postal Service as first class mail with proper postage affixed in an envelope addressed to: "Commissioner of Patents and Trademarks, Washington, DC 20231" on January 23, 1999.

 01/23/99  
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Jeff J. Staggs, Applicant Date